

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:818
ANSWERED ON:19.07.2002
CENTRAL EXCISE ACT
RAGHUNATH JHA

Will the Minister of FINANCE be pleased to state:

- (a) whether Section 35F of Central Excise Act provides that the Commissioner (Appeals) or (Tribunal) can dispense with such deposit partly or wholly if he feels that deposit of such amount would cause undue hardship to appellant;
- (b) if so, whether such dispensation help the appellant use the Government money that it becomes due to it which amount they multiply and what yardstick is available to the Commissioner to measure that the deposit will unduly hardship the appellant;
- (c) the steps taken to immediately remove such clause from the Act and recover the amount that is due from the appellants; and
- (d) the number of adjudication cases pending as on July 1, 2002 and the amount of duty involved therein?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI GINGEE N. RAMACHANDRAN)

(a) to (c): Section 35F of the Central Excise Act requires an assessee to deposit with the Adjudicating Authority the duty demanded or the penalty levied pending a decision or an order in appeal before the Commissioner(Appeals) or the Appellate Tribunal. Proviso to the said section empowers the Appellate Authorities to dispense with such deposits where it is felt that the deposit of duty demanded or penalty levied would cause undue hardship to such person. In other words, section 35F restricts the power of stay (an inherent power to an Appellate Authority) to the extent that the Appellant had to necessarily prove to the satisfaction to the authorities the financial difficulties that he may incur in the event if the order has not been stayed during the period of appeal. The law relating to the Appeals under the Indirect tax enactments are amended to require the Commissioner(Appeals) to pass final orders in an Appeal within 6 months from the date of Appeal and similarly the CEGAT to pass final orders within 6 months in appeals where stay had been granted.

(d): 27,100 Central Excise cases involving amount of Rs. 8514.52 crores were reported as pending adjudication as on April, 2002, and similarly, 576 Customs cases were reported as pending as on May, 2002. Amount of revenue involved in the said cases is not readily available.